

PERRY RICKARD
Director of Public Health Services

MICHAEL MACLEAN, M.D., M.S.
Health Officer



COUNTY OF KINGS

KEITH WINKLER
Deputy Health Director
Environmental Health Services
www.countyofkings.com/health/ehs

DEPARTMENT OF PUBLIC HEALTH

330 Campus Drive - Hanford, California 93230
Telephone: (559) 584-1411 Fax: (559) 584-6040

June 12, 2006

California Environmental Protection Agency
Unified Program Section
1001 I Street, 4th Floor
Sacramento, CA 95814
Attn: John Paine

Re: Response to Evaluation Report for Kings County CUPA

This letter is in response to the Evaluation Report and Summary of Findings for Kings County CUPA, which was received by our Department on June 2, 2006. The report describes an evaluation of our Kings County CUPA that was conducted by the CUPA evaluation team on April 5, 2005.

The following comments and documentation are being provided as requested in the cover letter of the Evaluation Report as a progress report in response to the 4 deficiencies noted in the Summary of Findings section of the report:

Deficiency #1 – The CUPA inspection frequencies are not being met for the Hazardous Waste and Business Plan programs.

This has also been identified as an issue in the "inspection effectiveness and efficiency" section of our past several CUPA self-audit narratives. We are currently fully staffed and have been since March 2005. The workload analysis section of our current CUPA program plan (copy enclosed) sets a goal of 225 business plan inspections and 116 hazardous waste inspections for FY 2005-06. We are currently on pace to complete approximately 190 business plan and 100 hazardous waste inspections. While this is an increase from the previous 2 years when we were not fully staffed, it is still short of the triennial inspection frequency mandated in the business plan program. There is no mandated inspection frequency in the hazardous waste program. We have established an informal risk based inspection plan in order to ensure that our higher risk facilities are inspected at a greater frequency. We have prioritized our inspections to those few facilities with the largest quantities of hazardous materials storage as well as all facilities in our Cal ARP program.

It is doubtful that any new staff positions will be approved for our CUPA (or other EHS) programs in the near future unless new funding sources, such as expansion of the Rural CUPA Reimbursement Account to cover all rural CUPAs as was originally intended, were to become available. Previous increases in local CUPA fees have not resulted in additional staff positions. In the mean time we will continue to strive to maximize our inspections in all CUPA programs to the greatest extent possible with our existing resources.

Deficiency #2 – The CUPA has had some problems with Federal facilities that pay their UST fee, but not the business surcharge every year. The CUPA will need to work with the Federal Agencies to collect the mandatory business surcharge required each year.

This is not a local issue and should not be identified as a deficiency on the report. The non payment of surcharge fees by Federal military installations has been a statewide issue since the inception of the CUPA program and the implementation of the State surcharge. We have letters in our files dating as far back as 1998 with legal opinions and justifications from both sides as to why the surcharge is or is not applicable to Federal facilities. Cal-EPA has attempted several times over the years to address this issue with their Federal counterparts with no success. It was our understanding based on a 2003 e-mail from Larry Matz that Cal-EPA was in the process of developing a statewide position on this issue to distribute to CUPAs, but the position paper was never completed. While we will continue to include the surcharge fees on our annual billing to Lemoore Naval Air Station, we will not take additional measures to collect the disputed surcharges until such time as the issue is settled by Cal-EPA. Copies of various correspondence and e-mails regarding this issue are enclosed with this letter.

Deficiency #3 – Cal-EPA was provided with a copy of the most recent Self Audit only.

Prior to the 2005 evaluation we submitted all materials that were requested by the evaluation team. This included the most recent (FY 2003-04) CUPA self audit narrative. Previous narrative reports were not requested by the evaluation team. In addition to CUPA-to-State reports we also complete self audit narratives each year prior to September 30th and maintain copies for our records. A copy of our most recent (FY 2004-05) self audit narrative is enclosed with this letter.

Deficiency #4 – In reviewing the Summary Reports, it was hard to see what enforcement was accomplished as most notices had been informal and thus not tracked on the data system.

This was essentially a problem with how our violations and enforcement actions were being tracked in our data management system (Envision) in that these records had to be manually entered one-by-one into our database. Historically, if several minor violations were noted on an inspection report, only one violation record and one linked enforcement record was created as a way to track violations and compliance. This resulted in an under reporting of total violations on the annual CUPA-to-State reports. As of March 1, 2006 we began using an electronic field inspection system linked to Envision that automatically creates individual violation records for each violation noted on the report. This system allows us to track virtually all violations electronically with less time spent doing manual data entry. Once compliance has been verified a "complied on" date is added to the violation tracking record to close the violation. Copies of a recent electronic inspection report along with a screen shot of an Envision program record and violation status update form are enclosed with this letter.

We would like to comment on the overall evaluation process as it has evolved from previous evaluations. We appreciate the numerous examples of outstanding program implementation contained in the report and agree that this is an important part of the evaluation. It is an excellent idea to share innovations and program implementation strategies on your website so we can all learn from one another. In order to make the written summary of findings section of the report of more use to us, however, it would need to be issued at the end of the evaluation or shortly thereafter rather than such a long delay (nearly 14 months in our case). I understand the current procedure is to issue a draft written summary of findings along with the verbal exit interview at the end of the evaluation. We would be in favor of using this summary as a starting point, giving the CUPA 30 or 60 days to respond to any concerns, then amend the report if necessary to include the CUPA response and issue the final report. The whole process should be completed in 90 days or less and the CUPA could address any deficiencies in a much more timely fashion.

We do feel that the evaluation process in general has evolved in a positive direction and look forward to working with Cal-EPA and the evaluation teams in the future. Please let me know if you have any questions or need further information regarding our response.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Winkler". The signature is fluid and cursive, with the first name "Keith" and last name "Winkler" clearly distinguishable.

Keith Winkler, REHS
Director

CC: Tim Fillmore, REHS